



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/668,174	09/25/2000	Kenji Imura	44319-054	1744
7590	09/26/2003			
Kenneth L Cage Esquire McDermott Will & Emery 600 13th Street NW Washington, DC 20005-3096			EXAMINER WU, JINGGE	
		ART UNIT 2623	PAPER NUMBER 6	
DATE MAILED: 09/26/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/668,174	IMURA, KENJI
Examiner	Art Unit	
Jingge Wu	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on 25 September 2000.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-36 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-3,6,7,10-14,17,18,21-25,28,29 and 32-36 is/are rejected.

7)  Claim(s) 4,5,8,9,15,16,19,20,26,27,30 and 31 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119 and 120**

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some \* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 and/or 121.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_ .  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3 . 6)  Other: \_\_\_\_\_

***DETAILED ACTION***

1. Applicant's election with traverse of Group II in paper No. 5 is acknowledged.

Applicant's argument in paper No. 5 is persuasive. Therefore, the requirement of restriction is expressly withdrawn. Claims 1-36 are now presented for prosecution.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 12, 23 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6538242 to Kuno et al.

As to claim 1, Kuno discloses a test chart color measuring system comprising:

a color image taking apparatus takes up a color image of a test chart (20) with a matrix of color samples (fig. 21) to output color image signals (col. 10 line 28-col. 11 line 58); and

an image processor which extracts image signals corresponding to color samples on the density of the taken test chart image, and calculates a color value of each color sample using the extracted image signal (fig. 16, col. 13).

As to claims 12 and 23, the discussions are addressed with regard to claim 1.

4. Claims 34-36 rejected under 35 U.S.C. 102(b) as being anticipated by US 5416613 to Rollerston et al.

As to claims 34-36, Rollerston discloses test chart output controller (inherent) to control the printer to printer the color patches on the test chart for calibrating the color printer and color corrector , a color image taking apparatus (70) takes up the color image of the test chart and the image processor(20,30,40,60,80) extracts iamge signals and calculates the color values using the extracted image signals (fig. 1, col. 3 lines 42- col. 6).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-3, 6-7, 10-11, 13-14, 17-18, 21-22, 24-25, 28-29, 32-33 rejected under 35 U.S.C. 103(a) as being unpatentable over Kuno in view of US Yamaguchi et al.

As to claim 2, Juno further discloses the color image taking apparatus includes:

an illuminator body (21) illuminates the test chart (fig. 14 and 16);  
a color image pickup device (1) with has a plurality of spectral sensitivities  
different from each other, and pickup an image of the test char (20) to output image  
signals (figs. 14, 16 and 20).

Kuno does not explicitly mention an opening at the main body and an optical  
system.

Yamaguchi, in an analogous environment, discloses:  
a main body having a opening to place test object (fig. 6); and  
a optical system which introduces light beams having a special direction from  
the test object to the color pickup device (fig. 6, 331).

It would have been obvious to one having ordinary skill in the art at the time the  
invention was made to use the scheme of Yamaguchi in the system of Kuno in order to  
signify the construction and reduce the production cost (Yamaguchi, col. 2).

As to claim 3, Yamaguchi further discloses the illuminator illuminates the test  
chart in a direction of 45 degree to a normal to the opening (figs. 4, 6, and 9); and  
the optical system introduces reflection light beams propagating along the normal  
to the opening from the test object (figs. 4, 6, 9, col. 9 –col. 10).

As to claims 6-7, Yamaguchi further disclose a telecentric optical system (fig. 4  
and 6, 311-312), wherein a field lens arranged such that the optical axis of the lens  
coincides with the normal to the opening, and focus lens arranged at the focal point of  
the field lens (figs. 4 and 6, col. 9).

As to claims 10-11, Kuno further discloses the color image apparatus includes a  
drive controller to cause pickup device to pickup images during a plurality of different  
periods, and calculates the color values using the image signals corresponding the

exposure periods, and a display device to display an index indicates a partial area of a color image (figs. 14, 16, and 20, col. 10-13).

As to claims 13-14, 17-18, 21-22, 24-25, 28-29, 32-33, the discussions are addressed with regard to claims 2-3, 6-7, and 10-11.

#### ***Allowable Subject Matter***

7. Claims 4-5, 8-9, 15-16, 19-20, 26-27, 30-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 6008905 to Breton et al, US 5483339 to Van Aken et al, and 5691817 to Cargill et al. disclose methods for obtaining color image.

#### ***Contact Information***

9. Any inquiry concerning this communication or earlier communications should be directed to Jingge Wu whose telephone number is (703) 308-9588. He can normally be reached Monday through Thursday from 8:00 am to 5:30 pm. The examiner can be also reached on second alternate Fridays.

Any inquiry of a general nature or relating to the status of this application should be directed to TC customer service whose telephone number is (703) 306-0377.

Art Unit: 2623

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Amelia Au, can be reached at (703) 308-6604.

The Working Group Fax number is (703) 872-9314.

Jingge Wu

Primary Patent Examiner